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SEC Approves Change to 529, ABLEReporting.

PHOENIX - The Securities and Exchange Commission has granted approval to a Municipal Securities Rulemaking Board proposal to refine the data it collects regarding the investment options offered in certain municipal fund securities.

The MSRB announced late last week that the SEC had approved the proposal, which would amend electronic Form G-45 under MSRB Rule G-45 on reporting of information on municipal fund securities. The change will result in the board collecting two new data points about investment options in 529 college savings plans as well as Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE) programs.

The form amendments will become effective on June 30, 2018.

The MSRB went out for industry comment with the proposal in August, and at that time it was more ambitious. The original proposal would have asked underwriters to provide data about four facets of these funds: program management fees, investment option closing dates, benchmark return percentages, and performance by asset class.

However, the MSRB decided at its quarterly board meeting in October to send the SEC a more limited proposal to collect information only about the program management fees and investment option closing dates. Industry feedback indicated that providing the other data would have been too burdensome.

Even with the more limited proposal that was approved by the SEC, Leslie Norwood, a managing director, associate general counsel, and co-head of municipal securities at the Securities Industry and Financial Markets Association, said that SIFMA was disappointed. SIFMA had told the commission that reporting additional information would be burdensome, and that underwriters should be allowed to provide on form G-45 a link to the program documents because much of the information being sought is disclosed there.

“SIFMA is disappointed that its comments from the industry were dismissed, Norwood said. “SIFMA and its members continue to believe that this rule change makes the underwriters of ABLE plans responsible for information not within their direct custody and control, increases costs for ABLE plan investors and increases the gap in the regulatory paradigm for direct sold plans versus dealer sold plans.”

The MSRB first began collecting data about college savings plans in 2015 and will begin collecting data about ABLE programs in 2018. The data the MSRB collects is not publicly-available.

The board has said it is making this change to allow it to make a more effective “apples-to-apples” comparison between college savings and ABLE plans administered by different underwriters. As of right now they don’t all report information the same way. For example, while underwriters are required to report their program management fees, some underwriters lump this amount in with other expenses and make it difficult to identify the management fee itself. There are also differences

in ABLÉ fees based on state residency, the MSRB found.

The board will be collecting information on many other fees charged by plan administrators, such as fees for opening accounts or for foreign transactions.

“The MSRB and other regulatory authorities may use this data to analyze 529 college savings plans and ABLÉ programs, monitor their growth rate, size and investment options, and compare 529 college savings plans and ABLÉ programs based on fees, costs and performance,” the board said in its notice announcing SEC approval.

By Kyle Glazier

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